

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

LIONEL NED, JR.

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CIVIL ACTION NO. : _____

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VERSUS

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JUDGE:

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**EUNICE POLICE DEPARTMENT, CHIEF
RANDY FONTENOT, OFFICER A.J. FRANK
AND OFFICER RAYMOND MOTT**

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MAGISTRATE:

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COMPLAINT FOR DAMAGES

NOW COMES Plaintiff, LIONEL NED, JR., by his attorneys, Doran & Cawthorne, P.L.L.C., and complains of Defendants, Eunice Police Department, Chief Randy Fontenot, Officer A.J. Frank and Officer Raymond Mott, as follows:

INTRODUCTION

1. Plaintiff, Lionel Ned, Jr., was wrongfully arrested and/or detained on or about April 24, 2013 for the crimes of Possession with Intent to Distribute Schedule II Controlled Dangerous Substance, Possession of Drug Paraphernalia, Violation of Uniform Controlled Dangerous Substance (Drug Free Zone) and no seatbelt. All charges were subsequently dismissed.
2. This arrest and/or detention was effected although no credible probable cause supported the detention or accosting of Mr. Ned.
3. Defendant, Eunice Police Department, operating under the color of law, wrongfully abused the judicial process to have Plaintiff, Lionel Ned, Jr., arrested and subsequently jailed for the aforementioned crimes.

4. Defendant, Chief Randy Fontenot, operating under the color of law, wrongfully abused the judicial process to have Plaintiff, Lionel Ned, Jr., arrested and subsequently jailed for the aforementioned crimes.
5. Defendant, Chief Randy Fontenot, operating under the color of law, wrongfully abused the judicial process to have Plaintiff, Lionel Ned, Jr., arrested and subsequently jailed for the aforementioned crimes.
6. Defendant, Officer A.J. Frank, operating under the color of law, wrongfully abused the judicial process to have Plaintiff, Lionel Ned, Jr., arrested and subsequently jailed for the aforementioned crimes.
7. Defendant, Officer Raymond Mott a/k/a "Tattoo", operating under the color of law, wrongfully abused the judicial process to have Plaintiff, Lionel Ned, Jr., arrested and subsequently jailed for the aforementioned crimes.
8. As a direct result of Defendants' misconduct, which resulted in Plaintiff's wrongful arrest, and detention, Plaintiff sustained substantial damages, including, but not necessarily limited to, mental and psychological anguish, and lost wages during and after the period of detention.
9. Plaintiff now brings this action against the Eunice Police Department, Chief Randy Fontenot, Officer A.J. Frank and Officer Raymond Mott, to redress pursuant to federal statute and relevant state law to redress the deprivation under color of law of Plaintiff's rights as secured by the United States and Louisiana Constitutions and the defamation, with resulting damages including, but not limited to mental and psychological anguish.
10. Further, Plaintiff requests a jury trial in all matters.

STATEMENT OF JURISDICTION AND VENUE

11. This Honorable Court has federal question jurisdiction over the subject matter of this claim pursuant to 28 U.S.C. 1331, 1332, 1343 (a)(1), (2) and (4) and 42 U.S.C. § 1983.
12. Federal jurisdiction over pendant state claims is governed by 28 U.S.C. § 1367, which states: "[I]n any civil action in which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all claims that are so related to claims in the action... that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). All parties reside in this judicial district, and the events giving rise to the claims asserted herein occurred in this judicial district.
13. Plaintiff brings this action to redress the deprivation under the color of state law of rights, privileges and immunities secured to him by provisions of the Fifth, Eight, Ninth and Fourteenth Amendments to the United States Constitution.
14. Venue is proper with this Honorable Court as at all material times, the events giving rise to this litigation occurred in this District, and all parties reside in same.

PARTIES

15. Plaintiff, Lionel Ned, Jr., was at all relevant times a citizen of the United States and a resident of St. Landry Parish, Louisiana. Made defendants in this action are:
16. Defendant, the Eunice Police Department, is a governmental agency headed by Chief Randy Fontenot (hereinafter "Chief Fontenot"). As the employer of Officer A.J. Frank and Officer Raymond Mott, it is liable for the acts and omissions under the doctrine of *respondeat superior*. The Eunice Police Department may be served through Chief Fontenot.

17. Defendant, Chief Fontenot, enjoys formal authority and control over the conduct of the officers herein. Chief Fontenot is a policy-maker with respect to the official *modus operandi* of the Eunice Police Department, including the specific conduct complained of herein. Chief Fontenot is a person of the full age of majority who can be served at 300 S. 2nd Street, Eunice, LA 70535. Chief Fontenot is sued in his official capacities.
18. Defendant, Officer A.J. Frank (hereinafter referred to as “Officer Frank”), was at all times relevant herein an officer employed by the Eunice Police Department. At all pertinent times herein Officer Frank was acting in his capacity as an agent, servant, and employee of Defendant, the Eunice Police Department, and within the scope of his employment as such. Officer Frank is a person of the full age of majority who may be served at 300 S. 2nd Street, Eunice, LA 70535. Officer Frank is being sued in his individual and official capacities.
19. Defendant, Officer Raymond Mott a/k/a “Tattoo”, was at all times relevant herein an officer employed by the Eunice Police Department. At all pertinent times herein Officer Raymond Mott was acting in his capacity as an agent, servant, and employee of Defendant, the Eunice Police Department, and within the scope of his employment as such. Officer Raymond Mott is a person of the full age of majority who may be served at 511 Hawkeye Ave., Lake Arthur, LA 70549. Officer Raymond Mott is being sued in his individual and official capacities.
20. At all times relevant herein, all law enforcement officials herein were acting under color of state law in the course and scope of their duties and functions as agents, servants, and employees of their employer named herein, and otherwise performed and

engaged in conduct incidental to their performance of their lawful functions in the course of their duties.

21. On information and belief, Defendant, the Eunice Police Department's policy, practice and custom of engaging in faulty investigations, false arrests and false imprisonment has been promulgated, effectuated and/or enforced in bad faith as a matter of express policy or custom and contrary to clearly established law.
22. In defiance of the clear constitutional command, Defendants have at all times relevant herein, promulgated, implemented, enforced and/or failed to rectify a policy, practice and custom allowing officers and deputies to engage in the sort of constitutional violations averred herein without proper oversight or sufficient corrective action. This policy or custom has resulted in the violation of the most fundamental rights of the Plaintiff herein.
23. As a direct and proximate result of the acts described herein effected pursuant to this policy or custom, Plaintiff has suffered severe psychological pain and suffering, mental anguish and loss of wages.

STATEMENT OF FACTS

24. On or about April 24, 2013, officers with the Eunice Police Department arbitrarily approached Plaintiff on the passenger side of a vehicle that was legally parked at a gas station.
25. Subsequently, Officer Frank then began harassing and interrogating Plaintiff and conducted a search without a warrant and without probable cause.
26. Plaintiff was subsequently arrested by the Eunice Police Department and charged with the crimes of Possession with Intent to Distribute Schedule II Controlled Dangerous

Substance, Possession of Drug Paraphernalia, Violation of Uniform Controlled Dangerous Substance (Drug Free Zone) and no seatbelt.

27. Subsequently, the St. Landry Parish District Attorney's Office dismissed all charges against Plaintiff.

CAUSE OF ACTION UNDER 42. U.S.C. SEC. 1983

28. In the manner described above, Defendants violated Plaintiff's, Lionel Ned, Jr., constitutional rights, as described earlier herein.

29. Officer Frank and Officer Raymond Mott had no objective evidence to directly implicate Plaintiff in any crimes and did not have any probable cause.

30. Defendant, the Eunice Police Department is being sued for the following reasons, to wit:

- A. In inadequately supervising and/or training its employees;
- B. Failing to develop and maintain policies or customs which would ensure that the constitutional rights of the citizens would not be violated;
- C. Failing to discourage the violation of constitutional rights; and
- D. Any and all other acts of negligence which will be shown at the trial of this matter.

31. Defendant, Chief Fontenot, in his official capacity as the Chief of Police of the Eunice Police Department, is being sued for the following reasons, to wit:

- A. Failing to adequately supervise his deputies' investigation of the above-mentioned incident, involving Lionel Ned, Jr.;
- B. Failing to establish and/or maintain policies, procedures, training and/or supervision of his officers, including the defendant-officers;

- C. Failing to promulgate proper policies and procedures which would assure that the employees of the Eunice Police Department would adhere to proper standards; and
 - D. By violating policies and/or procedures and/or general orders applicable under the circumstances.
32. Defendant, Officer Frank, individually, and in his official capacity as an officer of the Eunice Police Department, is being sued for the following reasons, to wit:
- A. Intentionally and/or negligently depriving Plaintiff of his constitutional rights and participating in unlawful acts including: conspiring to unlawfully seize and detain him and inflicting emotional distress upon Plaintiff;
 - B. Failing to do what he should have done and to being callously indifferent to the constitutional rights of Plaintiff, including knowingly violating what he knew or should have known to be those constitutional rights;
 - C. Failing to adhere to proper standards;
 - D. Failing to following all internal procedures, safeguards and protocol required by generally accepted law enforcement procedures and/or the Eunice Police Department; and
 - E. All of Officer Frank's actions were undertaken under color of law, and within the scope of his employment such that his employer, the Eunice Police Department and Chief Fontenot are liable for his actions.
33. Defendant, Officer Raymond Mott, individually, and in his official capacity as an officer of the Eunice Police Department, is being sued for the following reasons, to wit:

- A. Intentionally and/or negligently depriving Plaintiff of his constitutional rights and participating in unlawful acts including: conspiring to unlawfully seize and detain him and inflicting emotional distress upon Plaintiff;
- B. Failing to do what he should have done and to being callously indifferent to the constitutional rights of Plaintiff, including knowingly violating what he knew or should have known to be those constitutional rights;
- C. Failing to adhere to proper standards;
- D. Failing to following all internal procedures, safeguards and protocol required by generally accepted law enforcement procedures and/or the Eunice Police Department; and
- E. All of Officer Raymond Mott's actions were undertaken under color of law, and within the scope of his employment such that his employer, the Eunice Police Department and Chief Fontenot are liable for his actions.

STATE LAW CLAIMS

- 34. Defendants are liable to Plaintiff for their acts and omissions which caused his:
 - A. Wrongful arrest;
 - B. Wrongful detention; and
 - C. Malicious prosecution.

DAMAGES

- 35. Those acts described above caused resulting injury to Plaintiff. These include, but are not necessarily limited to:
 - A. Mental suffering and anguish;
 - B. Psychological suffering and anguish;

- C. Emotional distress, inflicted both negligently and intentionally;
- D. Economic losses including having to pay Attorney's Fees for the defense of the above mentioned charges; and
- E. Lost wages.

36. Plaintiff seeks and is entitled to attorney's fees under 42 U.S.C. 1981, 1983 and 1988.

WHEREFORE, Plaintiff, Lionel Ned, Jr., respectfully requests that this Court enter judgment in his favor and against Defendants, the Eunice Police Department, Chief Randy Fontenot, Officer A.J. Frank and Officer Raymond Mott, awarding compensatory damages in an amount of \$1,000,000.00, and attorney's fees, along with punitive damages, in reasonable amounts to be determined by this Court, against Defendants, and court costs, as well as any other relief this Court deems just and appropriate. Further, Plaintiff requests a trial by jury for all matters.

Respectfully submitted,

DORAN & CAWTHORNE, P.L.L.C.

/s/ PRIDE J. DORAN, 25035

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Attorney for Lionel Ned, Jr.

PLEASE SERVE:

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Through Chief of Police Randy Fontenot
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Eunice, LA 70535

Chief Randy Fontenot
300 S. 2nd Street
Eunice, LA 70535

Officer A.J. Frank
Eunice Police Department
300 S. 2nd Street
Eunice, LA 70535

PERSONAL SERVICE ONLY

Raymond Mott a/k/a "Tattoo"
511 Hawkeye Ave.
Lake Arthur, LA 70549

PERSONAL SERVICE ONLY